

SENATE BILL 1766
By Burchett

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 8, Part 1; Title 16, Chapter 15, Part 9; Title 39, Chapter 16, Part 6 and Title 62, relative to service of process.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Private Process Servers Regulatory Act".

SECTION 2. Tennessee Code Annotated, Title 62, is amended by adding sections 3 through 8 as a new chapter.

SECTION 3. The purpose of this chapter is to ensure that any and all processes and writs issued by Tennessee courts are completed by a professional and responsible individual or business whose primary source of income is the service of process.

SECTION 4. Any person serving process within the state shall comply with the licensing requirements or be employed as a certified law enforcement officer.

SECTION 5. It is an offense for any individual to serve process within the state unless such individual meets the qualifications and acquires a license as a licensed process server as provided in section 6.

SECTION 6. The secretary of state shall issue licenses and badges to individuals who want to be licensed process servers and collect a fee for such licenses and badges. The fee

shall be no greater than two hundred dollars (\$200) with an annual renewal fee no greater than one hundred dollars (\$100). Such fees shall provide for implementation and enforcement of rules and regulations and the cost of state identification cards and badges. The secretary of state shall promulgate rules and regulations to effectuate the purposes of this act, including describing the qualifications required to be a process server and how to receive a license and badge.

SECTION 7. All licensed process servers shall be required to affix their signature and state identification number to all returns made to the courts.

SECTION 8. A violation of this chapter is a Class C misdemeanor.

SECTION 9. Tennessee Code Annotated, Section 8-8-108, is amended by deleting subdivision (a)(1) in its entirety and substituting instead the following:

(1) Only certified law enforcement officers and individuals licensed through the secretary of state to serve process shall execute any legal writs, garnishments or other process in their hands, and shall be liable under the provisions of law as in other cases, except that only certified law enforcement officers shall be permitted to levy personal property being attached for sale.

SECTION 10. Tennessee Code Annotated, Section 8-8-108, is amended by deleting subsection (c) in its entirety.

SECTION 11. Tennessee Code Annotated, Section 16-15-901, is amended by deleting such section in its entirety and by substituting instead the following:

(a) Upon filing of civil warrants, writs and other papers, the clerk of the general sessions court wherein such civil warrants, writs or other papers are filed, shall issue the required process, writs, garnishments or other papers, and cause it or them, with necessary copies of the civil warrant, writ or other papers, to be delivered for service to only certified law enforcement officers or other individuals licensed through the secretary of state to serve process. Such authorized person shall serve the civil warrants, writs,

garnishments or other papers, and return endorsed thereon shall be proof of the time and manner of service. A civil warrant, writ, garnishment or any other paper may be issued for service in any county against any defendant or additional defendants. Any civil warrant, writ, garnishment or any other papers issued by the general sessions court shall be served only by certified law enforcement officers or individuals licensed through the secretary of state to serve process. Such officer or licensed process servers shall be identified by name and identification number issued by the secretary of state on the return.

(b) Any civil warrant, garnishment, attachment or any other process used in any action of the general sessions court, except those issued to levy personal property being attached for sale, shall be served only by licensed process servers or certified law enforcement officers. In the case of personal property being attached for sale, only certified law enforcement officers shall effect service of process. The process server shall be identified by name and identification number issued by the secretary of state on the return.

(c) Substituted service may be performed on any individual over the age of eighteen (18), who lives at the defendant's residence, for any civil warrant, writ or other papers filed in general sessions court or any other court of record, by any individual authorized to serve process.

SECTION 12. Tennessee Code Annotated, Section 16-15-903(10), is amended by deleting the first sentence and substituting instead the following:

Service by mail of a warrant, writ or other papers upon a defendant may be made by any certified law enforcement officer, licensed process server or by plaintiff's attorney.

SECTION 13. Tennessee Code Annotated, Title 39, Chapter 16, Part 6, is amended by adding the following as a new section:

Section 39-16-610.

(a) It is an offense for any public utility, or any agent thereof, to knowingly refuse to assist any officer or licensed process server by refusing to assist in making current addresses or forwarding addresses available of customers who may have changed addresses.

(b) For this section to apply, such request of information shall be made on official letterhead and include name, previous address of the person being served, name of the court in which the person is to appear and the docket number of the case in which the person is to appear. The process server must appear in person at the usual business establishment during normal business hours and provide proof of identification and copies of summons or other writs to be served.

(c) A violation of this section is a Class C misdemeanor.

SECTION 14. This act shall take effect on July 1, 2003, the public welfare requiring it.